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*Attorneys for Defendants*

UNITED STATES DISTRICT COURT,  
DISTRICT OF NEVADA

DANIEL GONZALEZ and JEFFREY  
HUGHES,

Plaintiffs,

vs.

DIAMOND RESORTS  
INTERNATIONAL MARKETING, INC.,  
DIAMOND RESORTS  
INTERNATIONAL, INC., DIAMOND  
RESORTS CORPORATION, and WEST  
MAUI RESORTS PARTNERS, L.P.,

Defendants.

Case No. 2:18-cv-00979-GMN-CWH

**PROPOSED DISCOVERY PLAN AND  
SCHEDULING ORDER**

**(SPECIAL SCHEDULING REVIEW  
REQUESTED)**

Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure and District of Nevada Local Rule 26-1, Plaintiffs Daniel Gonzalez and Jeffrey Hughes (“Plaintiffs”), and Defendants Diamond Resorts International Marketing, Inc. and West Maui Resorts Partner, L.P. (“Defendants”), through their counsel of record, hereby submit this proposed discovery plan and scheduling order.

1. Fed. R. Civ. P. 26(f) Conference and Report:

On October 19, 2018 and October 31, 2018, the parties participated in a telephonic Rule 26(f) conference. The participants were Martin Holmes and Peter Klett on behalf of Plaintiffs and Kirstin Muller and Alison Hamer on behalf of Defendants. During the Rule 26(f) conferences, the Parties’ counsel discussed the following issues:

a. What changes should be made in the timing, form, or requirement for disclosures under Rule 26(a), including a statement of when initial disclosures were made or will be made?

Initial disclosures from all parties are due 21 days after the date of private mediation, which is anticipated to occur no later than March 30, 2019.

b. The subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused on particular issues?

The parties intend to promptly conduct informal pre-mediation discovery in order to expedite the exchange of necessary information and documents prior to and in aid of mediation. Plaintiffs served Defendants discovery requests on October 31, 2018 and have agreed to stay the time period for Defendants to provide formal responses while the parties engage in an informal exchange of documents and information leading up to mediation. If, at some point, Plaintiffs believe that Defendants should respond to Plaintiffs’ Requests for the Production of Documents, Set One, Plaintiffs will so advise Defendants in writing to start the 30-day period for Defendants to serve formal responses and/or objections. The parties intend to conduct discovery on Rule 23 class action certification/decertification issues. The parties will also conduct discovery on the claims as set forth in the Complaint and the defenses relevant to the claims in this action.

1 c. Any issues about disclosure or discovery of electronically stored information,  
 2 including the form or forms in which it should be produced?

3 None.

4 d. Any issues about claims of privilege or of protection as trial-preparation materials,  
 5 including -- if the parties agree on a procedure to assert these claims after production -- whether  
 6 to ask the court to include their agreement in the order?

7 The parties agree that a party who produces a document protected from disclosure by the  
 8 attorney-client privilege, attorney-work product doctrine or any other recognized privilege  
 9 (“privileged document”) without intending to waive the claim of privilege associated with such  
 10 document may promptly, meaning within fifteen (15) days after the producing party actually  
 11 discovers that such inadvertent disclosure occurred, amend its discovery response and notify the  
 12 other party that such document was inadvertently produced and should have been withheld. Once  
 13 the producing party provides such notice to the requesting party, the requesting party must  
 14 promptly, meaning within seventy-two (72) hours, return the specified document(s) and any  
 15 copies thereof. By complying with this obligation, the requesting party does not waive any right  
 16 to challenge the assertion of privilege and request an order of the Court denying such privilege.  
 17 Accordingly, and subject to the protections of FRE 502, the parties request that the Court  
 18 entertain an order under FRE 502(d), whereby inadvertently disclosing attorney-client privileged  
 19 or work product information is not deemed a waiver.

20 e. What changes should be made in the limitations on discovery imposed under these  
 21 rules or by local rules, and what other limitations should be imposed?

22 None.

23 f. Any other orders that should be issued under Rule 26(c) or under Rule 16(b) and  
 24 (c)?

25 None.

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2. District of Nevada Local Rule 26-1:

a. Statement as to Why Longer or Different Time Periods Should Apply:

The parties seek special scheduling review as a portion of this action has been pled as a Rule 23 class action. Accordingly, the parties seek additional time to conduct discovery because of the class action nature of this litigation and corresponding need to conduct discovery on Rule 23 class issues, including those related to class certification/decertification. In addition, the parties have discussed exploring resolution of the case through private mediation, which they anticipated would take place by March 30, 2019, with an informal exchange of information and documents prior to and in aid of mediation and allowing time for any additional necessary discovery afterwards if mediation is unsuccessful.

b. Proposed Scheduling Order:

Pursuant to District of Nevada Local Rule 26-1(e), the parties propose the following schedule for the completion of discovery:

1) Discovery Cut Off Date: **September 27, 2019**, which is 385 days from the date Defendants filed their Answer on September 7, 2018.

2) Amending the Pleadings and Adding Parties: **June 29, 2019**, which is 90 days before the discovery cut-off date.

3) Experts: **July 29, 2019**, which is 60 days before the discovery cut-off date. Rebuttal expert disclosures should be served by **August 28, 2019**, which is 30 days after the deadline for serving initial expert disclosures.

4) Dispositive Motions: **October 27, 2019**, which is 30 days after the discovery cut-off date.

5) Joint Pretrial Order: **December 11, 2019**, which is 45 days after the deadline for filing dispositive motions. In the event dispositive motions are filed, the date for filing the joint pretrial order should be suspended until thirty (45) days after decision on the dispositive motions or further order of the Court.

6) Pretrial Disclosures: Unless the Court orders otherwise, the disclosures required by Fed. R. Civ. P. 26(a)(3) and any objections thereto should be included in the pretrial order.

1           7)     Interim Status Report: **November 26, 2019**, which is 60 days before the discovery  
2 cut-off date.

3           8)     Motion for Rule 23 Class Certification: Plaintiff shall file a motion seeking Rule  
4 23 class certification by **July 29, 2019**, which is 60 days before the discovery cut-off date.

5           9)     Motion for FLSA Conditional Certification: If Defendants are not agreeable to  
6 entry of a stipulation tolling the running of the statute of limitations applicable to FLSA claims,  
7 which are not tolled with the filing of the Complaint, Plaintiffs may file a motion seeking  
8 conditional certification of the FLSA claims at any time, but no later than **April 30, 2019**.

9       3.     Calculation of Time: Fed. R. Civ. P. 6(a) shall apply to the deadlines set forth in this  
10 Order.

11    4.     Alternative Dispute Resolution: Pursuant to LR 26-1(b)(7), by filing this proposed  
12 discovery plan and scheduling order, the parties hereby certify that they met and conferred about  
13 the possibility of using alternative dispute-resolution processes including mediation, arbitration,  
14 and if applicable, early neutral evaluation.

15    5.     Alternative Form of Case Disposition: Pursuant to LR 26-1(b)(8), by filing this proposed  
16 discovery plan and scheduling order, the parties hereby certify that they met and conferred, and  
17 considered consent to trial by judge under 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73 and the use  
18 of the Short Trial Program, and do not consent thereto.

19    6.     Electronic Evidence Certification: Pursuant to LR 26-1(b)(9), by filing this proposed  
20 discovery plan and scheduling order, the parties hereby certify that they met and conferred  
21 regarding whether they intend to present evidence in electronic format to jurors for purposes of  
22 jury deliberations. The parties have not reached any stipulations regarding the same.

23    7.     Extension of Scheduled Deadlines: Pursuant to District of Nevada Local Rule 26-4, all  
24 motions or stipulations to extend any of the deadlines set forth herein should be filed with the

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1 court no later than twenty-one (21) days before the expiration of the deadline for which an  
2 extension is sought.

3 IT IS SO STIPULATED this 2nd day of November 2018:

4 DICKINSON WRIGHT PLLC

LEWIS ROCA ROTHGERBER CHRISTIE LLP

5  
6 /s/ Martin D. Holmes

/s/ Alison M. Hamer

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15 *Attorneys for Plaintiffs, Putative Collective*  
16 *Class Members and Putative Hawaii Class*  
17 *Members*

*Attorneys for Defendants*

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22 IT IS SO ORDERED:

23   
24 CARL W. HOFFMAN  
25 United States Magistrate Judge

26 DATED: November 5, 2018  
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**CERTIFICATE OF SERVICE**

I hereby certify that on November 2, 2018, I caused a true and accurate copy of the foregoing, **PROPOSED DISCOVERY PLAN AND SCHEDULING ORDER** to be filed with the Clerk of the Court via the Court's CM/ECF system, which sent an electronic copy of the same to the following counsel of record:

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Dated this 2nd day of November, 2018.

/s/ Karen Torres